

CALIFORNIA COASTAL COMMISSION

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-05-40

Applicant: City of Solana Beach

Agent: Susan McCabe

Description: Demolition of 60 parking spaces within an existing 93-space public beach asphalt parking lot (Fletcher Cove Beach Park) and replacement with a grass and/or sand covered park and the request for after-the-fact approval of an unpermitted 74-space parking lot at 140 S. Sierra Avenue.

Site: 140 S. Sierra Avenue and Fletcher Cove Beach Park, west end of Plaza St., Solana Beach. APN Nos. 298-010-63 and 66

Substantive File Documents: San Diego County Local Coastal Plan, San Dieguito Land Use Plan (1980); Fletcher Cove Master Plan/June 1992; Fletcher Cove Master Plan/June 2001; City of Solana Beach Resolution No. 95-43; City of Solana Beach Resolution No. 2001-59; Grading, Paving and Striping Plans for 140 S. Sierra Avenue dated 5/26/95; "Fletcher Cove Parking Study" by Katz, Okitsu & Associates dated April 12, 2005.

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends that the Commission take one vote adopting a two-part resolution, which would approve portions of the development and deny other portions of the development. Staff recommends the Commission **approve** the applicant's request for after-the-fact approval of an unpermitted 74-space parking lot at the "Distillery lot" (140 S. Sierra Avenue). The 74 space parking lot will help improve public access to the shoreline by providing adjacent commercial businesses adequate parking for their patrons such that they will be less likely to use public parking spaces on the streets or at Fletcher Cove that otherwise could be used by beachgoers.

Staff, recommends that the Commission **deny** the applicant's request for construction of a grass and/or sand park area within Fletcher Cove Beach Park because it will result in the permanent loss of 60 out of the existing 93 beach parking spaces at the only

beachfront parking lot in Solana Beach. While the applicant has proposed to offset the loss of the 60 parking spaces with the nearby previously constructed 74-space Distillery lot, and, in fact, that is the reason the off-site lot was acquired by the City, it cannot be given equal weight or one-for one replacement value. In addition, heavy use of the Distillery lot suggests there is current demand for parking in this lot by patrons of the nearby businesses such that very few spaces would remain available in that lot for Fletcher Cove Beach Park users during those times. The loss of 60 parking spaces from this public beachfront parking lot is considered a significant impact on public access, inconsistent with Coastal Act policies. Staff believes elimination of valuable beach parking in a prime location without a thorough analysis of the total parking demand, particularly during the summer, in this critical beach access location is at best, premature.

Standard of Review: The City of Solana Beach does not have a certified LCP. Therefore, the standard of review is Chapter 3 policies of the Coastal Act.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following two-part resolution. The motion passes only by an affirmative vote of a majority of the Commissioners present.

MOTION: *I move that the Commission adopt the staff recommendation to approve in part and deny in part Coastal Development Permit No. 6-05-40, with the approval subject to the conditions recommended by staff, by adopting the two-part resolution set forth in the staff report.*

RESOLUTION:

Part 1: Approval with Conditions of a Portion of the Development

The Commission hereby **GRANTS, as conditioned**, a coastal development permit for the portion of the project consisting of the request for after-the-fact approval of a 74 space parking lot at 140 S. Sierra Avenue, Solana Beach and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3, and will not have any significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

Part 2: Denial of the Remainder of the Development

The Commission hereby **DENIES** a coastal development permit for the portion of the development consisting of the demolition of 60 parking spaces within an existing 93

space public beach asphalt parking lot within Fletcher Cove Beach Park and adopts the findings set forth below, on the grounds that the development will not be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, would prejudice the ability of the local government having jurisdiction of the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and would result in significant adverse effects on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

The permit is subject to the following conditions:

1. Drainage and Polluted Runoff Control Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for the review and approval of the Executive Director, final drainage and runoff control plans and supporting calculations that have been approved by the City of Solana Beach Engineering Department. The plans shall be prepared by a licensed engineer and shall incorporate structural and non-structural Best Management Practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. In addition to the specifications above, the plan shall be in substantial conformance with the following requirements:

- (a) Selected BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater produced on site by each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, and/or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs.
- (b) Runoff shall be conveyed off site in a non-erosive manner.
- (c) Drainage from the parking areas, driveway area, and other impervious surfaces on the site shall be directed through vegetative or other media filter devices effective at removing and/or mitigating contaminants such as petroleum hydrocarbons, heavy metals, and other particulates.
- (d) Opportunities for directing runoff into pervious areas on-site for infiltration and/or percolation of rainfall through grassy swales or vegetative filter strips, shall be maximized where geotechnical concerns would not otherwise prohibit such use.
- (e) The plan shall include provisions for maintaining the drainage system, including structural BMPs, in a functional condition throughout the life of the approved development. The plan shall include an identification of the party or entity(ies) responsible for maintaining the various drainage systems over its lifetime and shall include written acceptance by the responsible entity(ies). Such maintenance shall include the following: (1) BMPs shall be inspected, cleaned and repaired when necessary prior to and during each rainy season, including conducting an annual inspection no later than September 30th each year and (2) should any of the project's surface or subsurface drainage/filtration structures or other BMPs fail or result in increased erosion, the applicant/landowner or successor-in-interest shall be responsible for any necessary repairs to the drainage/filtration system or BMPs and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Executive Director to determine if an amendment or new coastal development permit is required to authorize such work.
- (f) Sweeping of all impervious parking lot surfaces shall be conducted on a regular basis (e.g., monthly or weekly) using a vacuum regenerative sweeper or equivalent method that removes trash and particulate matter.

The permittee shall undertake development in accordance with the approved drainage and runoff control plans. Any proposed changes to the approved drainage and runoff control plans shall be reported to the Executive Director. No changes to the approved plans shall occur without an amendment to this coastal development permit unless the Executive Director determines that no amendment is required.

2. Condition Compliance. **WITHIN 60 DAYS OF COMMISSION ACTION ON THIS CDP APPLICATION**, or within such additional time as the Executive Director may grant for good cause, the applicant shall satisfy all requirements specified in the conditions hereto that the applicant is required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

3. Implementation of Drainage and Polluted Runoff BMPs. **WITHIN 90 DAYS OF ISSUANCE OF THIS PERMIT**, or within such additional time as the Executive Director may grant for good cause, the applicant shall install/implement drainage and polluted runoff control BMPs consistent with the plans approved pursuant to Special Condition #1 of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description/History. The subject application involves two separate developments in the City of Solana Beach. The first development involves a request for after-the-fact approval of an unpermitted 74-space asphalt parking lot at 140 S. Sierra Avenue, Solana Beach. The lot had previously been occupied by the “Distillery” nightclub which became damaged by fire and was subsequently demolished pursuant to a City nuisance abatement order. In 1994, the City acquired the lot which by then contained the “Distillery’s” 50-space parking area and unimproved area where the “Distillery” once stood. After acquiring the property in 1994, the City improved the unimproved area to create an additional 74-space parking lot without benefit of a coastal development permit. As a result, today there are a total of 124 parking spaces on the subject lot. However, the subject application only involves a request for after-the-fact approval of the 74-space asphalt parking area since the 50-space lot was in place at the time of the Distillery nightclub operation.

The applicant has identified that the reason the City purchased the subject lot in 1994 was in order to relocate the surface parking lot that exists at nearby Fletcher Cove Beach Park. The City has long-range plans to redevelop Fletcher Cove Beach Park. In 2001, the City approved the Fletcher Cove Master Plan which included a proposal to remove up to 75 parking spaces from Fletcher Cove and relocate them to the “Distillery” site. However, the Fletcher Cove Master Plan has not been reviewed or approved by the Commission and the standard of review for the subject development is the Coastal Act.

The second development request involves the redevelopment of nearby Fletcher Cove Beach Park and construction of a grass and/or beach sand park area in place of a portion of the existing 93-space asphalt parking lot. The proposed redevelopment of Fletcher Cove Beach Park will result in the loss of 60 public parking spaces. The applicant is proposing to mitigate the loss of these 60 parking spaces by replacing the parking with

the parking in the previously constructed 74-space parking lot (that is proposed for after-the-fact approval with this application) at 140 S. Sierra Avenue.

The existing unpermitted 74-space parking lot is at 140 S. Sierra Avenue, which is on the east side of S. Sierra Avenue behind several commercial buildings that front Highway 101 and Plaza Street. Fletcher Cove Beach Park is located on the west side of S. Sierra Avenue, at the western terminus of Plaza Street. Fletcher Cove Beach Park is approximately 250 to 300 ft. northwest of the proposed 74-space parking lot.

The City of Solana Beach does not have a certified Local Coastal Program (LCP). As such, the standard of review for the proposed development is Chapter 3 policies of the Coastal act.

V. APPROVAL FINDINGS AND DECLARATIONS

The findings in this section apply only to that portion of the development that is described in Part 1 of the Commission's resolution on this permit application, which portion is therefore being conditionally approved.

1. Public Access/Parking. Section 30252 of the Coastal Act states, in part, that:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation

This proposal involves a request for after-the-fact approval of an existing unpermitted 74-spaced asphalt parking area adjacent to and connected with an existing 50-spaced asphalt parking area. The subject site is located on the east side of S. Sierra Avenue, approximately 250 to 300 feet southeast of Fletcher Cove Beach Park, the City's primary beach access area. The subject development is located adjacent to several commercial developments that front Highway 101 to the east and Plaza Street to the north. Many of the existing commercial developments that surround the proposed parking lot were constructed prior to the incorporation of the City of Solana Beach and fail to meet the City's current parking standards. As a result, the subject parking lot is heavily used during the workweek by patrons of the surrounding businesses.

Section 30252 of the Coastal Act requires that new development should maintain and enhance public access to the coast by, among other things, providing adequate parking facilities. The applicant proposes to use this parking lot for the replacement of the 60 parking spaces proposed to be eliminated at nearby Fletcher Cove Beach Park. However, as explained in Section VI of this report, the Commission cannot approve the proposed elimination of parking at Fletcher Cove. Although it cannot be considered for replacement parking for lost parking at Fletcher Cove, the existing unpermitted 74 space

public parking lot can and does provide a reservoir of parking spaces for surrounding businesses and will help protect existing beach parking that currently exists at Fletcher Cove and along S. Sierra Avenue because business patrons will more likely use the proposed 74 spaces adjacent to the commercial establishment than the beach parking areas. In addition, on summer weekends when beach use is highest, these spaces can also serve to supplement existing parking at Fletcher Cove and along S. Sierra Avenue. Therefore, after-the-fact approval of the unpermitted 74-space parking lot is consistent with the public access policies of the Coastal Act.

2. Runoff/Water Quality. Section 30231 of the Coastal Act requires that the biological productivity of coastal waters be maintained by, among other means, controlling runoff and states, in part, that:

Section 30231

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrapment, controlling runoff,

The construction of impervious surfaces can result in impacts to water quality because water runoff from hard surfaces can contain pollutants that eventually drain onto beaches or other coastal waters. In urban areas, runoff can contain oil, gasoline, brake dust, particles of roofing material and construction matter, chemicals, trash and other contaminants. Filters, catch basins, permeable paving surfaces such as modular pavers, grassed parking areas, and permeable pavements can be employed to trap vehicle-generated pollutants and reduce runoff volumes.

The proposed project will increase the impervious surface area and the number of parking spaces on the site, which could potentially increase the pollutants on the site associated with cars. In addition, as the project site is located within approximately 1,000 feet of the ocean, it has the potential to adversely affect ocean waters unless measures are taken to contain or filter runoff from the subject site. The applicant has not provided plans or other documentation detailing how runoff from the subject site will be contained and filtered. Therefore, Special Condition #1 has been attached which requires the applicant to submit a Drainage and Polluted Runoff Control Plan that incorporates structural and nonstructural Best Management Practices (BMPs), for Executive Director approval, involving the proposed parking lot improvements. With appropriate BMPs, the potential for polluted runoff from the site making its way to the ocean is reduced. Therefore, as conditioned, the Commission finds the proposed development consistent with the water quality protection policies of the Coastal Act.

3. Unpermitted Development. Unpermitted development has occurred on the subject site without the required coastal development permit in the form of a 74-space asphalt parking lot for which the applicant is requesting after-the-fact approval. To ensure that the unpermitted development addressed by this application is resolved in a timely

manner, Special Condition #2 requires that the applicant satisfy all conditions of this permit that are prerequisite to the issuance of this permit within 60 days of Commission action, or within such additional time as the Executive Director may grant for good cause. In addition, Special condition #3 requires that all runoff control measures and best management practices (BMPs) required pursuant to Special Condition #1 of this permit be installed and implemented within 90 days of issuance of the coastal development permit.

Although construction has taken place prior to submission of this permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act. Review of this permit does not constitute a waiver of any legal action with regard to the alleged violation nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal permit.

4. Local Coastal Planning. Section 30604 (a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

Based on the above discussion, the proposed request for after-the-fact approval of the 74-spaced asphalt parking lot has been found to be consistent with the water quality and public access/recreation policies of the Coastal Act. Use of these spaces will maintain and/or enhance public access to the coast. The Commission finds that approval of the proposed project will not prejudice the ability of the City of Solana Beach to prepare a Local Coastal Program that is in conformity with Chapter 3 policies.

5. Consistency with the California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the water quality protection policies of the Coastal Act. Mitigation measures, including a Best Management Program addressing polluted runoff and involving regular maintenance, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

Recommendation Summary.

In summary, after-the-fact approval of the unpermitted 74-space asphalt parking lot will serve to maintain and/or enhance public access to the coast by providing additional parking for business users that otherwise might use the street parking closer to the beach or the beach parking spaces at Fletcher Cove. In addition, while not generally available during the workweek (due to its use by customers/employees of the nearby businesses), the proposed parking lot will be available to beachgoers after 6:00 p.m. during the workweek and at additional times during the weekend. Therefore, the subject development may also serve as a parking reservoir during high beach use such as summer weekends. Therefore, as conditioned, the proposed development is consistent with Section 30252 and 30231 of the Coastal Act.

VI. DENIAL FINDINGS AND DECLARATIONS

The findings in this section apply only to that portion of the proposed development that is described in Part 2 of the Commission's resolution on this permit application, which portion is therefore being denied.

1. Public Access and Recreation. Several policies of the Coastal Act require that new development protect or enhance public access and recreational opportunities to and along the shoreline. These policies include:

Section 30210

In carrying out the requirements of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or,

Section 30212.5

Wherever appropriate and feasible, public facilities, including parking areas or facilities, shall be distributed throughout an area so as to mitigate against the impacts, social and otherwise, of overcrowding or overuse by the public of any single area.

Section 30213

Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

Section 30252

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.

The proposed development involves the elimination of 60 parking spaces within a 93 space public parking lot and the installation of a turf grass and/or beach sand passive recreation area in place of the 60 parking spaces at a beachfront park (Fletcher Cove Beach Park). Fletcher Cove Beach Park comprises approximately 5.6 acres of land that includes a sandy beach area along the shoreline and a developed blufftop recreation area consisting of a small grassy area with picnic tables, an approximately 378 sq. ft.

restroom, 43,800 sq. ft. asphalt parking lot accommodating 93 spaces, approximately 3,570 sq. ft. Marine Safety Center, a 1,700 sq. ft. Community Center, and a ½ court basketball facility. Access to the sandy beach area is accommodated by an approximately 10 to 15 ft. wide concrete access ramp on the north side of the Fletcher Cove parking lot that slopes downward to the beach from the park's entrance.

The 1,700 sq. ft. community center is located on the north side of the access ramp on a blufftop area that is approximately 40 feet higher in elevation than the other park facilities and will remain. In December 2002, the Commission approved the demolition of the existing restroom and the construction of a new restroom facility north of the access ramp (CDP No. 6-02-50/City of Solana Beach). The demolished restroom area is within the existing park area and is proposed to be converted to an additional landscaped, passive recreation area upon completion of the new restroom. The only existing facility affected by the subject development is the parking area where 60 parking spaces are proposed to be removed. Therefore, the proposal involves adding additional recreational area while at the same time eliminating a substantial amount of public beach parking.

As previously stated, the site on which the proposed turf grass and/or beach sand recreation area is to be installed is currently used for public beach parking. The project will result in the removal of 60 of the 93 public parking spaces, leaving 33 parking spaces to serve the existing passive park area, basketball court, Marine Safety Center, community center and the new passive recreation area. The applicant contends that the loss of the 60 public parking spaces can be mitigated by replacing them in a parking lot located approximately 250 to 300 ft. southeast of the park at 140 S. Sierra Avenue. However, the Commission finds the proposed replacement parking cannot be given equal or one-for-one replacement value. In addition, there is current demand (non-beach related) for the proposed replacement parking facility that can't be disregarded.

The subject development is located at Fletcher Cove Beach Park, a 5.6 acre park that serves as the primary beach access location in the City of Solana Beach. With parking space for up to 93 vehicles and direct access from Interstate 5 via Lomas Santa Fe drive, Fletcher Cove Beach Park provides close and immediate access for beachgoers unlike any other access location in the City. The public access ramp at Fletcher Cove accommodates direct access to the shoreline for pedestrians and lifeguard vehicles. In addition, as with all of California beaches, Fletcher Cove Beach Park is a coastal resource of statewide importance. The park is used by local and regional residents as well as tourists for a wide variety of passive and active ocean/shoreline recreation activities including surfing, swimming, tide pooling, jogging and ocean viewing. As can be seen on the attached Exhibit #4, public access to the beach is also accommodated by three public access stairways located at Tide Beach Park, "Seascape Surf" and "Del Mar Shores Terrace". These public access stairs, however, require climbing down approximately 80 ft. of stairs and are located in residential neighborhoods which do not provide the level of parking found at Fletcher Cove. The stairways at "Seascape Surf" and "Del Mar Shores Terrace" (condominiums) also require meandering several hundred feet through blufftop condominium complexes and are, therefore, not as inviting as Fletcher Cove Park.

The City has long-range plans to redevelop Fletcher Cove and has held numerous public workshops and hearings over the last decade to assist in its design. In June of 2001, the City Council approved the Fletcher Cove Master Plan which envisions, among other things, a new Marine Safety Center; a playground/tot lot; new public restrooms and showers; vehicular circulation changes including closing Pacific St./N. Sierra Avenue at the intersection with Plaza and closure of Plaza Street and; relocation of up to 74 parking spaces to the “Distillery” lot at 140 S. Sierra Avenue. The overall goal is to make the park more pedestrian oriented and to increase passive recreational use of the park’s upland area. Therefore, the subject development proposal is a significant element of the Fletcher Cove Master Plan. However, while the Fletcher Cove Master Plan has been approved by the City, it has not been reviewed or approved by the Coastal Commission. Therefore, while elimination of parking at Fletcher Cove is part of the City’s Fletcher Cove Master Plan, the standard of review for the subject proposal is the Coastal Act.

The applicant has identified that the property at 140 S. Sierra Avenue (the “Distillery” site) was purchased by the City in 1994 for the sole purpose of relocating all of the surface parking from Fletcher Cove following implementation of the Fletcher Cove Master Plan. The City’s 1992 resolution approving the original Fletcher Cove Master Plan and the elimination of surface parking at Fletcher Cove indicated that “[a]t least 290 off-street parking spaces will be provided to accommodate the proposed uses and replace parking spaces lost to project development.” (Ref. City of Solana Beach Resolution No. 92-59). The “off-street parking spaces” involved a parking structure that was to have been constructed at the “Distillery” site. The City authorized the “Distillery” lot to be used as an “interim” surface public parking lot. The following is from the City’s Resolution approving the use permit for the parking lot construction at 140 S. Sierra Avenue:

WHEREAS, the Fletcher Cove Master Plan specifically identifies this property as the receiver site for the existing parking spaces at Fletcher Cove that will ultimately be relocated to 140 S. Sierra Avenue, and . . .

WHEREAS, the unimproved lot is presently being used for parking in a haphazard and unorganized manner, and the City desires to make this property available for additional safe parking until final improvements can be funded rather than fencing the property and not allowing its interim use, and

WHEREAS, proposed parking lot is an intermediate use and design until the planned parking structure can be funded and developed, . . .
(Ref. City of Solana Beach Resolution No. 95-43)

Subsequently, however, the Fletcher Cove Master Plan was revised (June 2001) and the planned parking structure at the “Distillery” site was eliminated. However, the current Master Plan continues to identify the “Distillery” site as the repository for beach parking that will be eliminated at Fletcher Cove.

Most of the surface parking at Fletcher Cove would be relocated to the old “Distillery” parking lot, including the relocation of approximately 75 spaces to the Distillery site surface lot. With the relocation of 75 spaces to the “Distillery” site and retention of approximately 16 onsite spaces at the Cove, the beach park would have a total of 93 spaces (the same as the existing count). (Ref. Approved Fletcher Cove Master Plan Mitigated Negative Declaration, June 19, 2001; Resolution No. 2001-59:

The subject request to convert 60 paved public parking spaces to passive recreational use (grass turf and/or beach sand) and to provide replacement parking for the eliminated parking spaces at a site 250 to 300 ft. southeast of the park raises consistency issues with the public access and recreation policies of the Coastal Act. First, the creation of a passive recreation area adjacent to the public beach is a highly desirable use, which is consistent with the Coastal Act policies that protect and encourage oceanfront and upland recreational areas (ref. Sections 30221 and 30222). In addition, by providing additional recreational amenities, public use of the area will likely increase over what exists today. The beach at this location is not accessible at all times because of high tides and the lack of sufficient sand. With an additional passive recreation area, enhanced park use will be possible even when access to the beach is not as desirable.

The City indicates that use of the parking spaces at Fletcher Cove is highly dependent on the tide levels, surf conditions, time of year, and availability of sand and weather conditions. Heaviest use is on weekends during the summer. When surf is up, use increases throughout the year in the early morning hours before work and later in the afternoons. There also appears to be increased use after school hours throughout the year. However, when there is no surf and weather is poor, the parking lot is generally empty. In addition, because of the current low levels of sand throughout Solana Beach’s shoreline, access to the beach is dependent on tide levels. When tide levels are high, the parking lot is also generally empty since access to the beach is limited; except of course, when surf conditions are favorable for surfing.

Commission staff has visited Fletcher Cove over the years and concur with the City’s assessment. However, while it is evident that many times over the span of a year, the parking lot at Fletcher Cove has been generally empty, the Commission is concerned that by reducing parking at Fletcher Cove from 93 spaces to 33, the public’s ability to access the beach during high use periods will be adversely affected. In addition, while the beach is not accessible during many times of the year because of low sand levels, it is possible that sand levels could change overtime, either naturally or through sand replenishment projects, such that beach use would substantially increase. In June of 2001, approximately 146,000 cu. yds. of sand was placed at Fletcher Cove as part of the San Diego Association of Government’s (SANDAG) Regional Beach Sand Replenishment Project, which placed sand on 12 receiver beaches throughout San Diego County (Ref. CDP 6-00-36/SANDAG). SANDAG is currently investigating funding sources for future sand replenishment projects in San Diego County and Fletcher Cove is expected to once again be a candidate as a receiver beach.

Fletcher Cove Beach Park represents a valuable coastal resource of statewide and regional importance. Increasing populations along the Southern California coastline will undoubtedly result in increased use of this beach park. The large number of public parking spaces in close proximity of the ocean is a public access resource that should not be eliminated or substantially reduced without careful evaluation of its potential effect on public access over the long term. Furthermore, the City, as the applicant, has the burden of demonstrating that the project will be consistent with the access protection policies of the Coastal Act.

Two significant concerns are raised by the subject request. First, will the remaining 33 onsite parking spaces be sufficient to accommodate existing and future beach and park use including the added use resulting from the new passive recreational area? Secondly, can the loss of 60 prime beach parking spaces be adequately mitigated by providing replacement parking approximately 250 to 300 ft. southeast of Fletcher Cove?

To address these concerns, the City has submitted a parking study that identifies current parking demand at and around Fletcher Cove during four days in the winter of 2005 (February 24, 26, 27 and March 1, 2005). Using an “adjustment factor” the study attempts to estimate what the summer demand for parking might be. The parking study concludes that following the removal of 62 spaces from the Fletcher Cove public parking lot, sufficient available parking spaces will remain on nearby streets and at the Distillery lot to meet peak demand for parking even during the summer months. The report concludes:

“The data collected in this analysis shows that peak parking demand in the vicinity of Fletcher Cove is well below the practical parking capacity in the area....Therefore, it is concluded that the removal of additional spaces, for a total of 62 fewer spaces in the Fletcher Cove vicinity, would not decrease the parking supply enough to cause capacity problems in the area.”

Thus, the report concludes there is minimal demand for parking currently and ample room on surrounding streets and off-site lots to accommodate the proposed loss of parking in the Fletcher Cove parking lot.

However, the Commission, after review of the applicant’s parking study (ref. attached Exhibit #7) concludes that the report does not satisfactorily address the concerns identified above. The primary deficiencies in the parking study are that it does not include parking demand surveys conducted during the summer months and does not account for future local and regional growth or increased use of the park generated by the subject proposal to create a grassy/sandy park area.

The City’s parking study identifies parking demand at Fletcher Cove, the Distillery lot and four streets in close proximity to Fletcher Cove on February 24, 26, 27 and March 1 of 2005 from 7:00 a.m. to 6:00 p.m. While the study identifies these were not rainy days, a review of weather reports for that period indicates heavy rains occurred two days before the first survey occurred and the ocean was “muddy” with runoff. According to the North County Times, a paper that serves Solana Beach:

Angry brown water churned down every river and stream in North County on Wednesday, after the latest storm in the area's third wettest winter on record. A muddy, foam spread far out in the ocean, fed by waterways fuller than they've been in many years.

The average annual rainfall for the county's coastal cities is about 10 inches. Many areas of North County added more than 2 inches to their totals in the past two days. (North County Times, February 23, 2005)

The first parking survey occurred on the day following this North County Times article. Since the public is routinely warned to avoid the ocean for at least 72 hours following such rains, it is unlikely the days following this intense winter storm would be the best time to perform a beachfront parking demand study. In addition, even under ideal weather and other circumstances, beach use parking demand during the winter months should not be used to represent beach parking demand during the summer.

Without an adequate demonstration of existing (actual) demand, it is not possible to evaluate the potential adverse impacts elimination of 60 beachfront parking spaces may have on public access to the ocean and shoreline. It may be that some loss of parking at Fletcher Cove can be found to be consistent with the public access policies of the Coastal Act. However, the information provided by the applicant does adequately demonstrate what an acceptable loss of parking may be. Any detailed parking analysis that attempts to evaluate the loss of beach parking spaces should at a minimum be conducted during the summer, include identification of special events or holiday use and include an evaluation of the future needs for beach parking based on anticipated local and regional population growth.

Therefore, without adequate evidence to support the loss of parking, the Commission finds that the elimination of approximately 2/3 of the existing parking supply at Fletcher is premature, may be excessive and will result in significant impacts on public beach access inconsistent with Coastal Act policies.

The second question raised by the proposed development to eliminate 60 parking spaces at Fletcher Cove is whether the loss of the parking can be adequately mitigated as proposed by the parking lot 250 to 300 ft. southeast of the beach park. The applicant is proposing to replace the 60 spaces removed from Fletcher Cove, a highly desirable parking location for the beach and surf, with the "Distillery" parking lot. Currently beachgoers have direct access to the beach via a 15 ft. wide ramp located directly adjacent to the parking lot. While parking an extra 250 to 300 ft. from the park and crossing a street may not be substantially difficult for some beachgoers, it would presumably be less desirable and may actually present an impediment for others. In addition, there is a concern as to whether there are in fact available parking spaces at the "Distillery" site to "replace" the 60 spaces removed from Fletcher Cove.

As previously described, the City purchased the “Distillery” lot property with the intent to construct a public parking structure sometime in the future. After the purchase, the City added 74 asphalted parking spaces to the already existing 50 spaces by paving a dirt area and striping without benefit of a coastal development permit. Today the “Distillery” lot has 124 parking spaces, 74 of which are unpermitted, and the City no longer has plans to construct a parking structure. The applicant has documented that 50 of the existing 124 spaces are deed restricted for use during the normal workweek by a neighboring property owner through the year 2022. In addition, another 8 spaces are leased from the City for use by an adjacent restaurant. Therefore, during the weekday only 66 spaces (out of the total 124) are available without restriction for use by the general public.

However, these “available” spaces are actually being used by patrons of the surrounding businesses such that very few, if any, would be available to beachgoers during the workweek. Based on photographic evidence, informal surveys by Commission staff and comments from the public, it is apparent that the existing 124-spaced parking lot is currently used to a substantial level during regular business hours, presumably by patrons of the surrounding commercial establishments. In addition, while the Commission does not agree the submitted parking study is adequate to document parking usage during the peak summer months, it does contain some useful data. The parking study submitted by the applicant suggests that during weekdays (between the hours of 8:00 a.m. to 6:00 p.m.), there are few times when the Distillery lot has more than 60 parking spaces available. In addition, the study suggests that on weekends, between the hours of 10:00 a.m. and 1:00 p.m. (peak beach usage hours), there are fewer than 60 parking spaces available in the Distillery parking lot.

The City’s parking study also supports another concern with the proposed project. At all times during the parking study, even times when very few spaces were available in the Distillery lot, there were parking spaces available at the Fletcher Cove parking lot. What this suggests is that people are not using the Distillery lot to go to the beach. Thus, the City’s parking study does not document that adequate replacement parking for the 60 spaces eliminated at Fletcher Cove can be found at the Distillery lot during the summer workweek or at all times on weekends. If there were a suitable means to assure the unencumbered spaces at the Distillery lot would be reserved for exclusive use by beachgoers, there would be inadequate parking for businesses in the area and a spillover effect on street parking and the remaining spaces at Fletcher Cove. Therefore, the proposed development would have an adverse affect on the public’s ability to access the shoreline by the elimination of 60 public parking spaces at Fletcher Cove, especially during the summer months. Accordingly, the project will not protect public access and, therefore, must be denied.

While removal of 60 public parking spaces at Fletcher Cove will not protect public access, it is possible that some reduction in the number of public parking spaces (possibly up to a third) could be found consistent with Coastal Act policies at Fletcher Cove along with the development of additional passive recreational areas. In fact, the City has identified a number of improvements in the area that may overtime reduce the need for parking spaces at Fletcher Cove. In the 1990’s, the City restriped several streets

surrounding Fletcher Cove to increase the number of parking spaces. The applicant's parking study identifies that the amount of residential and public street parking spaces in the area surrounding Fletcher Cove and suggests excess parking is available on weekdays and weekends during the summer. However, as described previously, these surveys were not performed during the summer.

In addition, the City has a new pedestrian bridge under construction that will allow residents to safely cross the grade-separated railroad tracks toward the beach on the south side of the City and plans to construct an additional pedestrian bridge on the north side of the City. Both bridges will facilitate residents wanting to walk to the beach from points inland of the railroad and Highway 101. In addition, the City is currently considering an application for a "multi hundred" parking structure at the nearby North County Transit District train station which is located approximately ½ mile east of Fletcher Cove Beach and inland of Highway 101. A public shuttle system serving Fletcher Cove and the Highway 101 commercial corridor from such an inland parking reservoir could provide for non-automobile circulation in the area and a substitute means of maintaining and enhancing public beach use consistent with Section 30252. Each of these public improvements has the potential to reduce the need for public parking spaces at Fletcher Cove, although probably not eliminate that need entirely. Parking close to the beach is still going to be necessary for those wanting to surf or swim before work or those wanting to quickly access the beach during lunch hours or for those that cannot or do not want to walk or utilize public transportation.

Prior to incorporation of the City of Solana Beach, Fletcher Cove was a County park and one of the recreational facilities addressed in Policy 21 – 24 in the Commission-certified San Diego County LCP Land Use Plan (attached as Exhibit 5). Policy 24 includes standards for beach facility improvements necessary to carry out the public access and recreation policies of the Coastal Act that protect lower cost visitor and recreational facilities and oceanfront land for recreational use. These standards and projected use levels for Fletcher Cove (referred to as Solana Beach County Park) were developed nearly 25 years ago and, it is reasonable to assume, demand for the City's only beachfront park and parking lot has increased over time. In addition, the proposed passive blufftop recreational improvements and general population increase are reasons to expect greater park attendance in the future.

Policy 24 suggests beach parks with high intensity use and including upland game courts, picnic tables, restrooms and lifeguard service (such as exists at Fletcher Cove) should have at least sixty (60) parking spaces. While it is true that the existing parking lot may, at some times, be underutilized, especially during the winter months, there is no information to support this will always be the case and once the parking is gone, it would be difficult to replace. In other areas in San Diego County, there are examples where beachfront parking is non-existent or inadequate resulting in traffic and other spillover affects to surrounding areas.

In summary, Fletcher Cove Beach Park is a valuable coastal resource of local, regional and statewide significance and a lower cost visitor and recreational facility protected by

Section 30213 of the Act. Section 30223 requires reservation of upland areas necessary to support coastal recreational uses which would include public beach parking facilities. The proposed project would result in the permanent elimination of 60 public parking spaces without identifiable mitigation to adequately offset the potential adverse impact it would have on public access especially during high use periods such as the summer months. Therefore, the Commission finds the proposed development is premature and must be denied as inconsistent with all the public access and recreation policies of the Coastal Act cited above.

4. Local Coastal Planning. Section 30604 (a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding cannot be made.

Based on the above discussion, the proposed removal of 60 public parking spaces in close proximity to the shoreline without adequate mitigation has been found to be inconsistent with the public access and recreation policies of the Coastal Act. Removal of these parking spaces will have significant adverse impacts on public access to the shoreline and ocean. The Commission finds that approval of the proposed project will prejudice the ability of the City of Solana Beach to prepare a Local Coastal Program that is in conformity with Chapter 3 policies and, therefore, it must be denied.

5. California Environmental Quality Act (CEQA). Section 13096 of the Commission's Code of Regulations requires Commission approval of coastal development permits to be supported by a finding showing the permit to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect that the activity may have on the environment.

As described above, the proposed project would have adverse environmental impacts. There are feasible alternatives or mitigation measures available such as the no project alternative that would substantially lessen any significant adverse impacts that the activity may have on the environment such as removing fewer parking spaces or providing other replacement parking for any proposed loss of public parking. Therefore, the proposed project is not consistent with CEQA or the policies of the Coastal Act because there are feasible alternatives, which would lessen significant adverse impacts, which the activity would have on the environment. Therefore, the project must be denied.